

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

14

<h2 style="margin: 0;">TRANSMITTAL FORM</h2> <p style="font-size: small; margin: 5px 0;">(to be used for all correspondence after initial filing)</p>		Application Number	09/650,843	
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		First Named Inventor	H. Addison Sovine	
		Group Art Unit	3711	
		Examiner Name	Mark S. Graham	
Total Number of Pages in This Submission		62	Attorney Docket No.	1135.ACT2.PT

ENCLOSURES (check all that apply)			
<input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Appeal Communication: <input type="checkbox"/> Appeal Notice <input checked="" type="checkbox"/> Appeal Brief in triplicate <input type="checkbox"/> Reply Brief <input type="checkbox"/> Assignment with Cover Sheet <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Check in the amount of \$____ <input checked="" type="checkbox"/> Credit card authorization in the amount of \$ <u>160.00</u> <input type="checkbox"/> Declaration & Power of Attorney <input type="checkbox"/> Drawings ____ sheets <input type="checkbox"/> Formal <input type="checkbox"/> Informal	<input type="checkbox"/> Extension of Time Request ____ month <input type="checkbox"/> Fee Calculation Table <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Form 1449 <input type="checkbox"/> Copies of IDS References <input type="checkbox"/> Issue Fee Transmittal & Advance Order	<input type="checkbox"/> Maintenance Fee Transmittal ____ year <input type="checkbox"/> Missing Parts Response <input type="checkbox"/> Notification of Change of Attorney Address & Docket Number <input checked="" type="checkbox"/> Return Postcard <input type="checkbox"/> Revocation & Power of Attorney <input type="checkbox"/> Status Inquiry <input type="checkbox"/> Other:	
<div style="position: relative;"> <div style="position: absolute; top: 0; left: 0; width: 100%; height: 100%; background-color: white; border: 1px solid black; display: flex; align-items: center; justify-content: center;"> <div style="text-align: center;"> <h3 style="margin: 0;">RECEIVED</h3> <h2 style="margin: 0;">OCT 23 2002</h2> <p style="margin: 0;">TECHNOLOGY CENTER 10700</p> </div> <div style="position: absolute; right: 0; top: 0; writing-mode: vertical-rl; transform: rotate(180deg); font-size: x-small;"> BOARD OF PATENT APPEALS AND INTERFERENCES 2002 OCT 21 11:38:21 RECEIVED </div> </div> </div>			
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#14 / appeal Brief
LMORGAN-
10/24/02
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

H. Addison Sovine et al.

Serial Number: 09/650,843

Filed: August 28, 2000

Group: 3641

Examiner: Mark S. Graham

For: CLEARING TRAP

Attorney Docket: 1135.ACT2.PT

CERTIFICATE OF MAILING

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BRIEF ON APPEAL

Commissioner of Patents
Washington, D.C. 20231

Attention: Board of Patent Appeals and Interferences

Sirs:

This brief is submitted in the format of 37 C.F.R. § 1.192(c):

(1) **REAL PARTY IN INTEREST**

The real party in interest in the present pending appeal is H. Addison Sovine.

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(2) RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences

(3) STATUS OF THE CLAIMS

Claims 1-25 are pending.

Claims 1-25 stand rejected.

(4) STATUS OF AMENDMENTS

The last amendment entered was filed on February 27, 2002. An amendment after a Final Office Action was filed on July 15, 2002, but was not entered by the Examiner. The Notice of Appeal was filed August 6, 2002 and was received by the Office on August 12, 2002.

(5) SUMMARY OF THE INVENTION

The invention defined by the claims on appeal relates to a clearing trap having a housing, a bullet deceleration insert, and a bullet decelerating material disposed within the insert for decelerating bullets fired into the trap. (Specification, p. 6, lines 14-17.)

The clearing trap for receiving bullets is comprised of a housing having a cavity defined by an outerwall surrounding a void, Specification p. 9, lines 12-16, and an insert forming a bullet deceleration chamber, the insert being slidably insertable into and removable from the void of the housing, the insert being formed of a bullet decelerating material and having an opening for receiving a barrel of a gun. Specification p. 9, lines 12-16.

In one embodiment, the insert is formed by a plurality of pieces of steel plate.
Specification p. 10, line 21 - p.11, line 2.

In another embodiment, the plurality of pieces of steel plate form a bottom portion having a generally u-shaped cross-section and a top removably engaging the bottom portion such that the insert has a square cross-section when the top is attached. Specification p. 12, lines 11-19, Specification p. 13, lines 13-16, and Specification p. 16, lines 16-18.

In still another embodiment, the bottom portion is formed by a bottom and a pair of sidewalls, the bottom and sidewalls being fixedly attached to one another. Specification p. 12, lines 11-14.

In yet another embodiment, the insert comprises a plurality of vents for releasing force from the insert when a gun is fired into the insert. Specification p. 13, lines 6-12.

In another embodiment of the claimed invention, the insert is formed from a top plate, a bottom plate and a pair of sidewalls, and wherein the vents are formed between the sidewalls and at least one of the top plate and the bottom plate. Specification p. 14, lines 1-12.

In still another embodiment, the insert has at least one plate forming a lower end, and wherein the at least one plate has at least one slot formed therein. Specification p. 14, lines 15-17.

In yet another embodiment, the insert has two bottom plates and wherein the bottom plates each have slots formed therein. Specification p. 14, lines 16-20.

In another embodiment, the plates are aligned such that the slots in the plates do not overlap. Specification p. 14, line 20.

In yet another embodiment, the insert further comprises a bullet deceleration medium disposed therein. Specification p. 11, lines 5-6.

In a further embodiment, the bullet deceleration medium is formed by pieces of rubber. Specification p. 11, lines 6-7.

In still another embodiment, the housing is formed from a tube having a generally square cross-section. Specification p. 16, lines 16-18.

In yet another embodiment, the housing is formed from a material other than plate steel. Specification p. 10, lines 19-24.

In another embodiment of the claimed invention, the insert is formed by a bottom portion and a top portion, the top portion being removable from the bottom portion. Specification p. 13, lines 13-16.

In yet another embodiment, a leg is attached to the housing for supporting the housing. Specification p. 10, lines 6-7.

In still another embodiment, a base plate is attached to the housing and the leg. Specification p. 10, lines 8-9.

The presently claimed invention also includes a method for forming a clearing trap comprising, selecting a housing having a void configured to receive a bullet deceleration chamber and an open end through which a bullet passes, Specification p. 9, lines 12-16, and FIG. 2, selecting a bullet deceleration chamber, Specification p. 10, lines 14-19, and sliding the bullet deceleration chamber through the open end and into the void configured to receive the bullet deceleration chamber. Specification p. 10, lines 14-19.

The method further includes forming a face plate at one end of the housing or insert. Specification p. 9, lines 18-20.

The method also includes filling the bullet deceleration chamber with a bullet deceleration medium. Specification p. 11, lines 5-6.

In another embodiment, the method includes forming the bullet deceleration chamber from a plurality of generally flat pieces of steel. Specification p. 10, line 21 - p.11, line 2.

In still another embodiment, the method includes fixedly attaching a plurality of the generally flat pieces of steel, and releasably attaching at least one of the generally flat pieces of steel to the plurality of generally flat pieces of steel which are fixedly attached. Specification p. 12, lines 11-19.

In yet another embodiment, the method includes forming a plurality of vents in the bullet deceleration chamber. Specification p. 13, lines 6-12.

(6) ISSUES

(A) Whether claims 1, 5, 7, 10, 14, 15, 17, 18, 20, 21, and 22 are anticipated under 35 U.S.C. § 102(b) by Duer (U.S. Patent No. 4,787,289).

(B) Whether claims 1, 10, 12, 13, 14, 15, 17, 18, and 19 are anticipated under 35 U.S.C. § 102(b) by Fumero (WO 94/27111).

(C) Whether claim 11 is unpatentable under 35 U.S.C. § 103(a) over Duer (U.S. Patent No. 4,787,289).

(D) Whether claims 2, 3, 4, 5, 6, 11, and 16 are unpatentable under 35 U.S.C. § 103(a) over Fumero (WO 94,27111).

(E) Whether claims 8 and 9 are unpatentable under 35 U.S.C. § 103(a) over Tabler (U.S. Patent 2,613,934).

(F) Whether claims 23, 24, and 25 are unpatentable over Duer in view of Fumero.

(7) GROUPING OF CLAIMS

(A) The Examiner has grouped claims 1, 5, 7, 10, 14, 15, 17, 18, 20, 21, and 22 together as being anticipated under 35 U.S.C. § 102(b) by Duer (U.S. Patent No. 4,787,289). The applicant respectfully submits, however, that such claims do not stand or fall together. Indeed, claims 1, 14 and 20 are each independent claims that, as set forth in the Arguments hereto, are separately and independently patentable over the cited prior art.

Claims 1-7 and 10-13 stand together, but would not all fall together.

Claims 1 stands alone and would not fall with any other claim, as claim 1 contains at least one element that is separately patentable as discussed herein in the Argument section below..

Claims 2, 5, 10, 11 and 12 stand with claim 1, and would fall with claim 1.

Claim 3 stands with claims 1 and 2, but would not fall with claim 1 or 2 as claim 3 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 4 stands with claim 3, and would fall with claim 3.

Claim 6 stands with claims 1 and 5, but would not fall with claim 1 or 5 as claim 6 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 7 stands with claims 1 and 5, but would not fall with claims 1 or 5 as claim 7 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 13 stands with claim 1, but would not fall with claim 1 as claim 13 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 14 stands alone and would not fall with any other claim as claim 14 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 15 stands with claim 14, but would not fall with claim 14 as claim 15 contains at least one element that is separately patentable as discussed herein in the argument section below.

Claims 17, 18 and 19 stand with claim 14 and would fall with claim 14.

Claim 20 stands alone, and would not fall with any other claim as claim 20 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claims 21 and 22 stand with claim 20, and would fall with claim 21.

(B) The Examiner has grouped claims 1, 10, 12, 13, 14, 15, 17, 18 and 19 together as being anticipated under 35 U.S.C. § 102(b) by Fumero. The applicant respectfully submits,

however, that such claims do not stand or fall together. Indeed, claims 1 and 14 are independent claims that, as set forth in the Arguments hereto, are separately and independently patentable over the cited prior art.

Claims 1-7 and 10-13 stand together, but would not all fall together.

Claim 1 stands alone and would not fall with any other claim.

Claims 10 and 12 stand with claim 1, and would fall with claim 1.

Claim 13 stands with claim 1, but would not fall with claim 1 as claim 13 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 14 stands alone and would not fall with any other claim.

Claim 15 stands with claim 14, but would not fall with claim 14 as claim 15 contains at least one element that is separately patentable as discussed herein in the argument section below.

Claims 17, 18 and 19 stand with claim 14 and would fall with claim 14.

(C) The Examiner has grouped claims 2, 3, 4, 5, 6, 11, and 16 together as being unpatentable under 35 U.S.C. § 103(a) over Fumero (WO 94,27111). The applicant respectfully submits, however, that such claims do not stand or fall together. As previously discussed, claims 2, 5, and 11 stand with claim 1, and would fall with claim 1.

Claim 3, however, stands with claims 1 and 2, but would not fall with claim 1 or 2 as claim 3 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 4 stands with claim 3, and would fall with claim 3.

Claim 6 stands with claims 1 and 5, but would not fall with claim 1 or 5 as claim 6 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 16 stands with claim 14, but would not fall with claim 14 as claim 16 contains at least one element that is separately patentable as discussed herein in the Argument section below.

(D) The Examiner grouped claims 8 and 9 together as being unpatentable under 35 U.S.C. § 103(a) over Tabler (U.S. Patent 2,613,934). The applicant respectfully submits, however, that such claims do not stand or fall together.

Claims 8 and 9 stand together, but would not fall together.

Claim 8 stands alone and would not fall with any other claim, as claim 8 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 9 stands with claim 8, but would not fall with claim 8 as claim 9 contains at least one element that is separately patentable as discussed herein in the Argument section below.

(E) The Examiner has grouped claims 23, 24, and 25 as being unpatentable over Duer in view of Fumero. The applicant respectfully submits, however, that such claims do not stand or fall together.

Claim 23 stands with claim 20, but would not fall with claim 20 as claim 23 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 24 stands with claims 20 and 23, but would not fall with claims 20 or 23 as claim 24 contains at least one element that is separately patentable as discussed herein in the Argument section below.

Claim 25 stands with claim 20, and would fall with claim 20.

(8) ARGUMENT

(i) 35 U.S.C. § 112, First Paragraph

There are no issues under 35 U.S.C. §112, first paragraph.

(ii) 35 U.S.C. § 112, Second Paragraph

There are no issues under 35 U.S.C. § 112, second paragraph.

(iii) 35 U.S.C. § 102(b)

(A) The rejections of claims 1, 5, 7, 10, 14, 15, 17, 18, 20, 21, and 22 under 35 U.S.C. § 102(b) as being anticipated by Duer are improper and traversed.

(B) The rejections of claims 1, 10, 12, 13, 14, 15, 17, 18 and 19 under 35 U.S.C. § 102(b) as being anticipated by Fumero are improper and traversed.

With respect to claims 1, 14 and 20, the independent claims rejected under Section 102(b), it is axiomatic that in order to anticipate a claim, a piece of prior art must teach each element of the claim, either expressly or inherently described, in a single prior art reference. Verdegaal Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). If the prior art reference does not expressly set forth a particular element of the claim, the reference may still anticipate if the element is “inherent” in its disclosure. To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Continental Can Co., v. Monsanto Co., 948 F.2d 1264, 1268, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991). Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. Id. at 1269, 20 U.S.P.Q.2d 1749 (quoting In re Oelrich, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981).

Applicants traverse the rejection because Duer clearly does not have each element of claims 1, 14 and 20. To the contrary, several elements of each claim are missing from both Duer and Fumero.

With specific respect to claim 1, Applicant submits the claim is in condition for allowance. Neither Fumero, nor Duer teach an insert which has an opening for receiving a gun

barrel and is formed of a bullet decelerating material. Fumero teaches a bullet decelerating material which is disposed at the end of a series of baffles which are not removed from the device. Even if the baffles could be removed for replacement, they would not form part of the insert.

Moreover, neither Fumero nor Duer teach a housing with an opening at one end as set forth in the claim through which an insert formed of a bullet deceleration material is inserted. In Fumero it would be impossible to insert the insert (20) through the open in the top of the housing. Duer does not teach an insert as claimed in the present invention. Duer teaches a bullet deceleration chamber with a wire screen which is drawn through the bullet deceleration material to remove bullets. The wire screen does not fall within the definition of an insert as set forth in claim 1.

While the Examiner suggested that it would be obvious to replace the mesh basket of Duer with an insert according to the present invention, this misses the entire point of Duer. The express object of Duer is to remove bullets in a reusable condition. To this end, Duer teaches the use of "a basket incorporating open mesh screen which enables removal of bullets from the trap without requiring removal of the filler material therefrom." See Abstract of Duer. Replacing Duer's basket with a steel plate insert would have the opposite effect. Removing the insert from the house would remove the filler material. Thus, Duer clearly teaches away from the claimed invention.

Therefore, claim 1 is allowable over both Fumero and Duer.

With respect to claim 14, Applicant submits that the claim is allowable over the prior art. Both Fumero and Duer lack a continuous, removable bullet deceleration insert as set forth in the claim. In Duer, the basket extends along a small fraction of the length of the housing and therefore cannot be a bullet deceleration chamber as defined in the claim. With respect to the Examiner's argument that the housing in Fumero can be considered only compartment 105,

Applicant strenuously objects. Not only is this inconsistent with the Examiner's previous assertions that the ballistic ducts form part of the insert, it is inconsistent with the teachings of Fumero. It is well established that the Examiner cannot pick and chose from portions of the prior art in order to deprecate the invention. Nor can the Examiner define the prior art one way to reject one claim and a different way to reject another claim. Therefore, Applicant submits that claim 14 is allowable. Therefore, claim 14 and all claims dependent thereon should be allowed.

Turning now to claim 20, neither piece of prior art relied upon by the Examiner teaches sliding a bullet deceleration chamber into a housing having an open end through which a bullet travels. Duer's basket may be an insert, but it is not a bullet deceleration chamber. Indeed, Duer's basket is not formed from a material that would qualify as "bullet deceleration" material. Thus, even replacing the basket with bullet deceleration material would not form a deceleration chamber.

Therefore, claim 20 and all claims depending thereon should be allowed.

Thus, both Duer and Fumero, alone or in combination, clearly lack the elements of claims 1, 14 and 20 and the claims should be allowed.

With respect to claim 7, there is no teaching in the art of a plate having "at least one slot formed therein." Indeed, the Examiner fails to even address this claim element. Accordingly, both claim 7 is independently allowable over the art cited by the Examiner.

With respect to claim 13, there is no teaching in the art that the housing is "formed from a material other than plate steel." Indeed, each of the prior art references specifically teach the user of a steel outer housing.

(iv) 35 U.S.C. § 103(a)

(A) The rejection of claims 2-6, 11 and 16 as being unpatentable under 35 U.S.C. § 103(a) in view of Fumero or Duer is improper and traversed.

The real issue under Section 103 is whether the Examiner has stated a case of prima facie obviousness.

The PTO has the burden under section 103 to establish a prima facie case of obviousness. It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988) (citations omitted). In establishing a prima facie case of obviousness, the PTO "cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." Id. at 1600. While Applicant admits that virtually every element of a claim may be found somewhere in the prior art, this is not the test to determine whether the prior art renders the invention obvious. Rather, "[t]he test is whether the claimed invention as a whole, in light of all the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made." Connell v. Sears, Roebuck & Co., 220 U.S.P.Q. 193, 199 (Fed. Cir. 1983).

Applicant believes that the Examiner has failed to make a prima facie case of obviousness in that he has failed to show either (a) some objective teaching in the prior art that suggests combining the references, or (b) knowledge generally available to one of ordinary skill in the art which would lead that individual to combine the relevant teachings of the references to achieve the invention claimed. See In re Fine, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

First, nothing in the art suggests the proposed combination to provide the claimed invention. Thus, the Examiner must demonstrate some knowledge in the art which suggests the combination. The Court of Appeals for the Federal Circuit has repeatedly rejected simply relying on "obvious to one skilled in the art" as the basis for such a combination. Moreover, in

order for there to be a proper rejection under Section 103, the Examiner must demonstrate that the prior art contains the elements recited in the claims.

This reference point prevents the Examiner from using his own insight or, worse yet, hindsight, to gauge obviousness. Rarely, however, will the skill in the art component operate to supply missing knowledge or prior art to reach an obviousness judgment. *See W.L. Gore & Assocs., Inc. v. Garlock, Inc.* 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 312-13 (Fed. Cir. 1993)(“To imbue on of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teaches.”) Skill in the art does not act as a bridge over gaps in substantive presentation of an obviousness case, but instead supplies the primary guarantee of objectivity in the process.” *Al-Site Corp. v. VSI International, Inc.*, 50 U.S.P.Q.2d 1161, 1171 (Fed. Cir. 1999).

With respect to the rejections of claims 2-6, 11 and 16, Applicant objects to the Examiner’s assertion that the ballistic duct portions of Fumero can be considered part of the insert. It is clear from Fumero that such structures are not considered to be an insert or considered to be removable. Furthermore, the Examiner is not taking a consistent view of the art. On the one hand, he asserts that the ballistic ducts are part of the insert. On the other hand, he rejects claim 14 which requires that the insert be a continuous. Throughout the Office Action, the Examiner interprets structures differently depending on the language of an individual claim. Applicant submits that this is improper and the basis for overturning the Examiner’s position on appeal. The fact that the Examiner has separately described the same prior art in three different and inconsistent ways in order to set forth an art based rejection of the claims is a clear indication that the Examiner is engaging in the impermissible use of hindsight reconstruction. Such hindsight reconstruction has been strictly prohibited by the Federal Circuit.

The Examiner rejected claim 3 as being unpatentable over Fumero. The Examiner, however, has failed to show a top which removably engages the remainder of the insert as set forth in the claim and has failed to identify any teaching in the prior art which teaches use of such a top. Therefore, claim 3 should be allowed.

With respect to claim 6, Fumero does not teach the use of a top plate on the insert 20, and none of the art cited by the Examiner suggests modifying Fumero in such a manner. In fact, in Fumero, there is no reason to have a top plate due to its configuration.

(B) The rejection of claims 8 and 9 as being unpatentable under 35 U.S.C. § 103(a) in view of Tabler is improper and traversed.

Claim 8 is allowable over Tabler. Indeed, the Examiner previously indicated the subject matter of claims 8 and 9 to be allowable over the art. On that basis, Applicant amended claim 8 to place the claim in independent form. The Examiner has now entered an art-based rejection and indicated that the rejection is appropriate because the Applicant did not include all element of any intervening claims. The Applicant submits, however, that the elements of such intervening claims are not required for patentability of claim 8 as claim 8 now includes elements specifically not taught or suggested by the prior art. The Examiner has given no reason why such intervening claim elements are necessary for patentability. Applicant submitted to the Examiner that the final nature of the rejection should have been withdrawn to provide Applicant with an opportunity to provide an appropriate response or amendment.

In addition to Applicant's objection to the Examiner rejecting a claim which he previously indicated to be allowable in a final office action. Applicant objects to the Examiner's repeated extrapolations in an attempt to reject the claim. First, the art does not support the Examiner's conjecture that the plates are attached by rivets. It is common in the industry to weld plate steel because it is extremely difficult to drill. Second, even if a rivet were used, rivets usually are placed in holes, not slots. Third, it is unlikely that the bottom wall 40 would have a

slots formed therein, both due to the structure of the adjacent walls (which are perpendicular, and because wall 40 and associated structures are held in place by the cap 54, which attaches by pins 58). There is nothing in Tabler that teaches or suggests the claimed elements of either claim 8.

With respect to claim 9, as discussed with reference to claim 8, there is no teaching in Tabler regarding slots, let alone whether the slots overlap or not. Indeed, the Examiner fails to even address this claim element. Accordingly, both claims 8 and 9 are independently allowable over the art cited by the Examiner.

(C) The rejection of claims 23-25 as being unpatentable under 35 U.S.C. § 103(a) over Duer in view of Fumero is improper and traversed.

With respect to claim 23, as previously discussed, neither piece of prior art relied upon by the Examiner teaches sliding a bullet deceleration chamber into a housing having an open end through which a bullet travels. Duer's basket may be an insert, but it is not a bullet deceleration chamber. Furthermore, Duer's basket is not formed from "a plurality of generally flat pieces of steel," and, in light of the express teachings of Duer that the basket is to remove bullets without removing the filler material, it would not have been obvious to replace the basket with steel plates. Furthermore, even replacing the basket with flat pieces of steel would not form a deceleration chamber.

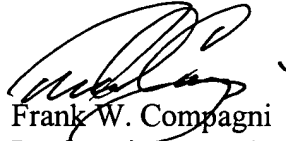
It is further clear that the combination of references cited by the Examiner would not result in attachment of "a plurality of the generally flat pieces of steel, and releasably attaching at least one of the generally flat pieces of steel to the plurality of generally flat pieces of steel which are fixedly attached." Nowhere in Duer or Fumero is such a method of attachment taught or suggested. Accordingly, claim 24 is patentable over the proposed combination.

(9) APPENDIX

A copy of claims 1 - 25 is appended hereto as "Appendix A."

The Commissioner is hereby authorized to charge any amount owing and to credit any overpayment to Account No. 50-0881.

Respectfully submitted,



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Date: October 7, 2002

APPENDIX A

1. (Amended) A trap for receiving bullets, the trap comprising:
a housing having a cavity defined by an outerwall surrounding a void; and
an insert forming a bullet deceleration chamber, the insert being slidably insertable into and removable from the void of the housing, the insert being formed of a bullet decelerating material and having an opening for receiving a barrel of a gun.
2. The trap for receiving bullets according to claim 1, wherein the insert is formed by a plurality of pieces of steel plate.
3. The trap for receiving bullets according to claim 2, wherein the plurality of pieces of steel plate form a bottom portion having a generally u-shaped cross-section and a top removably engaging the bottom portion such that the insert has a square cross-section when the top is attached.
4. The trap for receiving bullets according to claim 3, wherein the bottom portion is formed by a bottom and a pair of sidewalls, the bottom and sidewalls being fixedly attached to one another.
5. The trap for receiving bullets according to claim 1, wherein the insert comprises a plurality of vents for releasing force from the insert when a gun is fired into the insert.
6. The trap for receiving bullets according to claim 5, wherein the insert is formed from a top plate, a bottom plate and a pair of sidewalls, and wherein the vents are formed between the sidewalls and at least one of the top plate and the bottom plate.

7. The trap for receiving bullets according to claim 5, wherein the insert has at least one plate forming a lower end, and wherein the at least one plate has at least one slot formed therein.

8. (Amended) A trap for receiving bullets, the trap comprising:
a housing having a cavity defined by an outerwall surrounding a void; and
an insert forming a bullet deceleration chamber, the insert being slidably insertable into and removable from the void of the housing, and wherein the insert has two bottom plates and wherein the bottom plates each have slots formed therein.

9. The trap for receiving bullets according to claim 8, wherein the plates are aligned such that the slots in the plates do not overlap.

10. The trap for receiving bullets according to claim 1, wherein the insert further comprises a bullet deceleration medium disposed therein.

11. The trap for receiving bullets according to claim 10, wherein the bullet deceleration medium is formed by pieces of rubber.

12. The trap for receiving bullets according to claim 1, wherein the housing is formed from a tube having a generally square cross-section.

13. The trap for receiving bullets according to claim 1, wherein the housing is formed from a material other than plate steel.

14. (Amended) A clearing trap for receiving bullets fired from a gun, the clearing trap comprising:

a housing having an outerwall with an opening at one end and a void disposed within the outerwall; and

an insert disposed in the void of the housing, the insert forming a continuous, removable bullet deceleration chamber from a position adjacent the opening of the housing to an opposing end of the bullet deceleration chamber with the void.

15. The clearing trap according to claim 14, wherein the insert is slidably removable from the housing.

16. The clearing trap according to claim 14, wherein the insert is formed by a bottom portion and a top portion, the top portion being removable from the bottom portion.

17. The clearing trap according to claim 14, wherein the insert is filled with a removable bullet deceleration medium.

18. The clearing trap according to claim 14, further comprising a leg attached to the housing for supporting the housing.

19. The clearing trap according to claim 18, further comprising a base plate attached to the housing and the leg.

20. (Amended) A method for forming a clearing trap, the method comprising;

selecting a housing having a void configured to receive a bullet deceleration chamber and an open end through which a bullet passes;

selecting a bullet deceleration chamber; and

sliding the bullet deceleration chamber through the open end and into the void configured to receive the bullet deceleration chamber.

21. (Amended) The method according to claim 20, wherein the method further comprises forming a face plate at one end of the housing or insert.

22. The method according to claim 20, wherein the method further comprises filling the bullet deceleration chamber with a bullet deceleration medium.

23. The method according to claim 20, wherein the method comprises, forming the bullet deceleration chamber from a plurality of generally flat pieces of steel.

24. The method according to claim 23, further comprising fixedly attaching a plurality of the generally flat pieces of steel, and releasably attaching at least one of the generally flat pieces of steel to the plurality of generally flat pieces of steel which are fixedly attached.

25. The method according to claim 20, wherein the method comprises forming a plurality of vents in the bullet deceleration chamber.